

Letter of Findings: 01-20160719N
Indiana Individual Income Tax
For The Tax Years 2006, 2007, 2008, 2009, 2010, 2013 and 2014

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Married Couple were Indiana residents for the tax years 2006, 2007, 2008, 2009, 2010, 2013 and 2014 ("Tax Years at issue") because after they established their domicile in Indiana, they did not change their domicile to a different state. Married Couple thus were required to file their Indiana full-year resident individual income tax returns for the Tax Years at Issue. When Married Couple demonstrated that a portion of their income for those years was foreign source income and was excluded from taxation for federal income tax purposes, they would be entitled to the same treatment for Indiana income tax purposes.

ISSUE

I. Indiana Individual Income Tax - Non-filer - Residency.

Authority: IC § 6-1.1-12-37; IC § 6-3-1-3.5; IC § 6-3-1-12; IC § 6-3-1-13; IC § 6-3-2-1; IC § 6-3-2-2; IC § 6-8.1-5-1; *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); *Croop v. Walton*, 157 N.E. 275 (Ind. 1927); *State Election Bd. v. Bayh*, 521 N.E.2d 1313 (Ind. 1988); [45 IAC 3.1-1-21](#); [45 IAC 3.1-1-22](#); [45 IAC 3.1-1-22.5](#); [45 IAC 3.1-1-23](#); [50 IAC 24-2-5](#); Income Tax Information Bulletin 55 (September 2001).

Taxpayers protest the Department's assessments of individual income tax for the Tax Years at Issue.

STATEMENT OF FACTS

Taxpayers (Husband and Wife) are individuals who own an Indiana home and have claimed the Indiana homestead credit on their home since 2006.

The Indiana Department of Revenue ("Department") determined that Taxpayers were Indiana full-year residents for the Tax Years at Issue, that they did not file the Indiana income tax returns reporting their Indiana income tax, and that Indiana income tax was due for those years.

Taxpayers timely protested the assessments. An administrative hearing was held. This Letter of Findings ensues and addresses Taxpayers' protest of the proposed assessments. Additional facts will be provided as necessary.

I. Indiana Individual Income Tax - Non-filer - Residency.

DISCUSSION

The Department, based on verifiable information including Indiana real property records and records from the Indiana Bureau of Motor Vehicles, found that Taxpayers were Indiana residents for the Tax Years at Issue, that they failed to file their Indiana full-year resident individual income tax returns (Form IT-40), and that Indiana income tax was due for the Tax Years at Issue.

Taxpayers disagreed. Taxpayers claimed that they relocated to a foreign country in 1993 and became the residents of that country. Taxpayers argued that they were not Indiana residents for the Tax Years at Issue. The issue is whether Taxpayers were Indiana residents for the Tax Years at Issue.

As a threshold issue, all tax assessments are *prima facie* evidence that the Department's claim for the unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012). "[E]ach assessment and each tax year stands alone." *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64, 69 (Ind. 2009). Thus, the taxpayer is required to provide documentation explaining and supporting its challenge that the Department's assessment is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012).

Indiana imposes a tax "on the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person." IC § 6-3-2-1(a). IC § 6-3-2-2(a) specifically outlines what is income derived from Indiana sources and subject to Indiana income tax. For Indiana income tax purposes, the presumption is that taxpayers file their federal income tax returns as required pursuant to the Internal Revenue Code. Thus, to efficiently and effectively compute what is considered the taxpayers' Indiana income tax, the Indiana statute refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) provides the starting point to determine the taxpayers' taxable income and to calculate what would be their Indiana income tax after applying certain additions and subtractions to that starting point.

For Indiana income tax purposes, resident "includes (a) any individual who was domiciled in this state during the taxable year, or (b) any individual who maintains a permanent place of residence in this state and spends more than one hundred eighty-three (183) days of the taxable year within this state" IC § 6-3-1-12; see also [45 IAC 3.1-1-21](#). Nonresident is "any person who is not a resident of Indiana." IC § 6-3-1-13.

[45 IAC 3.1-1-23](#) explains further how "residency" affects a taxpayer's income tax liability, in relevant part, as follows:

(1) Taxpayer Moving to Indiana

When a taxpayer moves to Indiana and becomes a resident and/or domiciliary of Indiana during the taxable year, Indiana will not tax income from sources outside Indiana which the taxpayer received prior to becoming an Indiana domiciliary. Indiana will, however, assess adjusted gross income tax on all taxable income after the taxpayer becomes an Indiana resident.

(2) Taxpayer Moving from Indiana

Any person who, on or before the last day of the taxable year, changes his residence or domicile from Indiana to a place without Indiana, with the intent of abiding permanently without Indiana, is subject to adjusted gross income tax on all taxable income earned while an Indiana resident. Indiana will not tax income of a taxpayer who moves from Indiana and becomes an actual domiciliary of another state or country except that income received from Indiana sources will continue to be taxable.

(3) Nonresident Citizens

An individual from Indiana who is permitted to file Federal income tax returns as a nonresident citizen is considered as being domiciled in Indiana and his income taxable as a resident citizen, if he maintains a place of abode in Indiana immediately prior to residing in a foreign country as a nonresident citizen of the United States, and has not permanently established his domicile in a foreign country or in another state.

The fact that ordinary rights of citizenship, including voting at public elections are present but not exercised, shall not prevent a person from being classified as a resident if he meets the other tests set out in this regulation.

(4) Part-Time Resident Individuals

Persons residing in Indiana but living part of the year in other states or countries will be deemed residents of Indiana unless it can be shown that the abode in the other state or country is of a permanent nature. Domicile is not changed by removal therefrom for a definite period or for a particular purpose. A domicile, once obtained, continues until a new one is acquired

Recently, the Department revised the Adjusted Gross Income Tax regulations. Some revisions intend to clarify the definition of a person's domicile for Indiana income tax purposes and afford more considerations in determining a person's domicile. Thus, a taxpayer is benefited from the application of the new regulations when the taxpayer's domicile is in dispute. This Decision thus applies the new regulations accordingly.

[45 IAC 3.1-1-22](#) (2017) states as follows:

(a) "Domicile" means a person's domicile is the state or other place in which a person intends to reside permanently or indefinitely and to return to whenever he or she leaves the place. **A person has only one (1) domicile at a given time even though that person may be statutorily a resident of more than one (1) state. A person is domiciled in Indiana if he or she intends to reside in Indiana permanently or indefinitely and to return to Indiana whenever he or she leaves the state.**

(b) A person is domiciled in a state or other place until such time as he or she voluntarily takes affirmative action to become domiciled in another place. **Once a person is domiciled in Indiana, that status is retained until such time as he or she voluntarily takes positive action to become domiciled in another state or country and abandons the Indiana domicile by relinquishing the rights and privileges of residency in Indiana.**

(c) **In order to establish a new domicile, the person must be physically present at a place, and must have the simultaneous intent of establishing a permanent place of residence at that place. The intent to change one's domicile must be present and fixed and not dependent upon the happening of some future or contingent event. It is not necessary that the person intend to remain there until death; however, if the person, at the time of moving to the new location, has definite plans to leave that new location, then no new domicile has been established.**

(d) There is no one (1) set of standards that will accurately indicate the person's intent in every relocation. The determination must be made on the totality of facts, supported by objective evidence, in each individual case.

(Emphasis added).

[45 IAC 3.1-1-22.5](#) (2017) further outlines the factors in determining a person's domicile, as follows:

(a) The Department may require documentation from a person to evaluate domicile.

(b) The one hundred eighty-three (183) day and permanent place of residence threshold in IC [§] 6-3-1-12(b) and [\[45 IAC 3.1-1-21\]](#) is not a test for domicile.

(c) **A person is presumed not to have abandoned their state of domicile and established a new state or other place of domicile in a given year if, during that year, the person maintained a permanent place of residence (whether as an owner, renter, or other occupier of the residence) in that state and the person did more than one of the following:**

- (1) **Claimed a homestead credit or exemption** or a military tax exemption on a home in that state;
- (2) Voted in that state;
- (3) Occupied a permanent place of residence in that state or other place of domicile for more days of the taxable year than in any other single state;
- (4) Claimed a benefit on the federal income tax return based upon that state being the principal place of residence; or
- (5) Had a place of employment or business in that state.

A person may rebut this presumption through the presentation of substantial contrary evidence.

(d) If a person's domicile is not resolved by subsection (c), the Department may consider additional relevant factors to determine the person's state or other place of domicile, including the state or other place where the person:

- (1) **Maintained a driver's license or government issued identification card;**
- (2) **Was registered to vote;**
- (3) **Registered a vehicle;**
- (4) Claimed as dependents immediate family members who relied, in whole or in part, on the taxpayer for their support;
- (5) Assigned or maintained a mailing address;
- (6) Maintained bank accounts;

- (7) Maintained active membership in a religious, social, cultural or professional organization;
- (8) Received professional services; and
- (9) **Kept valuables or family heirlooms.**

This list of additional, relevant factors is not exclusive.

(Emphasis added).

Indiana law further defines "[h]omestead" as "an individual's principal place of residence . . . that is located in Indiana" and that "the individual owns" IC § 6-1.1-12-37(a)(2). "'Principal place of residence' means an individual's true, fixed, permanent home to which the individual has the intention of returning after an absence." [50 IAC 24-2-5](#). A taxpayer is entitled to claim a deduction, known as homestead deduction (or exemption), against taxes imposed on his or her homestead property pursuant to IC § 6-1.1-12-37(e). When the taxpayer is no longer qualified for the homestead deduction (or exemption), the taxpayer must notify the auditor of the county where the homestead is located within sixty days after the date of that change. IC § 6-1.1-12-37(f).

Thus, a new domicile is not necessarily created when an individual moves to a place outside of Indiana. Instead, the individual must move to the new location and have an intent to remain there indefinitely.

In *Croop v. Walton*, 157 N.E. 275 (Ind. 1927), a taxpayer, Mr. Walton, who was domiciled in Michigan sold his home in Michigan and moved to a new residence in Indiana where he and his wife lived for several years for the benefit of his wife's health. Mr. Walton lived in the Indiana home "on account of the mental and physical condition of his wife, and continued to occupy it until such time as she could safely return to [Michigan] to live." *Id.* at 276. The court concluded that, based on the level of activity he maintained in Michigan and lack of intention to abandon his domicile, Mr. Walton did not change his domicile from Michigan to Indiana. The court explained, in relevant part, that:

"If [a] taxpayer has **two residences in different states**, he is **taxable at the place which was originally his domicile, provided the opening of the other home has not involved an abandonment of the original domicile and the acquisition of a new one.**"

'[D]omicile' . . . is the place with which a person has a settled connection for legal purposes, either because his home is there or because it is assigned to him by the law, and is **usually defined as that place where a man has his true, fixed, permanent home, habitation, and principal establishment, without any present intention of removing therefrom, and to which place he has, whenever he is absent, the intention of returning.**

Id. (Internal citations omitted)(**Emphasis added**).

In explaining the difference between "residence" and "domicile," the court in *Croop* stated:

'Domicile' "is a residence acquired as a final abode. To constitute it there must be (1) residence, actual or inchoate; (2) the nonexistence of any intention to make a domicile elsewhere." "The domicile of any person is, in general, the place which is in fact his permanent home, but is in some cases the place which, whether it be in fact his home or not, is determined to be his home by a rule of law."

"Residence is preserved by the act, domicile by the intention." "Domicile is not determined by residence alone, but upon a consideration of all the circumstances of the case." "While a person can have but one domicile at a time, he may have concurrently a residence in one place . . . and a domicile in another."

To effect a change of domicile, **there must be an abandonment of the first domicile** with an **intention not to return to it**, and there must be a **new domicile acquired by residence elsewhere** with an **intention of residing there permanently, or at least indefinitely.**

Id. (Internal citations omitted)(**Emphasis added**).

In *State Election Bd. v. Bayh*, 521 N.E.2d 1313 (Ind. 1988), the Indiana Supreme Court considered the issue of the meaning of "domicile" in determining that Mr. Bayh met the residency requirement for the office of Governor. Mr. Bayh's domicile remained in Indiana even though he moved to different states for various reasons for many years. The court stated, in pertinent part:

Once acquired, domicile is presumed to continue because "every man has a residence somewhere, and ... he does not lose the one until he has gained one in another place." Establishing a new residence or domicile terminates the former domicile. A change of domicile requires an actual moving with an intent to go to a given place and remain there. "It must be an intention coupled with acts evidencing that intention to make the new domicile a home in fact.... **[T]here must be the intention to abandon the old domicile; the intention to acquire a new one; and residence in the new place in order to accomplish a change of domicile."**

A person who leaves his places of residence temporarily, but with the intention of returning, has not lost his original residence

Residency requires a definite intention and "evidence of acts undertaken in furtherance of the requisite intent, which makes the intent manifest and believable." **Intent and conduct must converge to establish a new domicile.**

Id. at 1317-18 (**Emphasis added**).

In this instance, the Department determined that, based on verifiable records, Taxpayers were Indiana residents during the Tax Years at Issue because (1) Taxpayers owned an Indiana house and an Indiana homestead credit was claimed since 2006; (2) Taxpayers periodically maintained and renewed their Indiana Operator Licenses and vehicle licenses; and (3) Taxpayers' children attended Indiana state colleges, receiving the Indiana in-state tuition benefits based on Taxpayers' Indiana residency. Taxpayers however claimed that they relocated and have been domiciled in Saudi Arabia since 1993. Thus, to determine whether Taxpayers were Indiana residents for the Tax Years at Issue, the Department must first determine whether Taxpayers effectively acquired their domicile in Indiana prior to 2006.

It is well-established that Taxpayers lived in Indiana during 1990s, that they maintained their Indiana Operator Licenses and vehicle licenses, that Taxpayers purchased their Indiana house in 1999, that they have been the owners of their Indiana home, that they did not rent their Indiana home, that they paid all the utility expenses associated with their Indiana home, and that the Indiana homestead deduction has been claimed on their Indiana house since 2006. When the homestead deduction was claimed, Taxpayers necessarily affirmed that the Indiana home is their "true, fixed, permanent home to which [they have] the intention of returning after an absence." Otherwise, Taxpayers were required to notify the county that they no longer qualified for the homestead deduction within sixty days after the date of that change. IC § 6-1.1-12-37(f). In addition, Taxpayers did not rent their Indiana home; rather their family members have lived there and Taxpayers paid for the house maintenance expenses, including utilities, during the Tax Years at Issue. Moreover, Taxpayers' children attended Indiana state colleges during the Tax Years at Issue. When an unemancipated student (namely, financially dependent) and the student's parents established they were domiciled in Indiana prior to the first day of the academic season for which resident classification was sought, the student was eligible for an in-state tuition benefits. Thus, there is a rebuttable presumption that Taxpayers were Indiana residents for the Tax Years at Issue because they were domiciled in Indiana.

To support their protest, Taxpayers offered copies of the following documents:

- Husband's U.S. Passports (2004-2014 and 2014-2024), both photo page and visa pages
- Wife's current U.S. Passport (2012-2022), photo page only
- Husband's Registration and Absentee Ballot Request for 2008 general election
- An excerpt of Husband's paystub (Earnings and Deductions Statement)
- Husband's Employment Agreement and Housing Assignment Agreement
- Deed of Trust regarding a vacant land in Missouri
- 1993 federal and State of Michigan income tax returns
- Husband's Saudi Arabia Resident Identity card, also known as "Iqama," and Driving License

Taxpayers stated that they and their three children lived with Husband's parents in Indiana when Husband was between jobs. Taxpayers asserted that they relocated to Saudi Arabia in July 1993 when Husband began to work for a company in Saudi Arabia. Taxpayers argued that they maintained and renewed Indiana Operator licenses and vehicle licenses only for the purposes of visiting family in Indiana and they spent only two weeks each time. Taxpayers further stated that Wife has returned to reside in their Indiana home only for the concern of her safety in Saudi Arabia. Taxpayers further stated that, in 1999, Taxpayers bought their Indiana home from Husband's parents to help Husband's parents. Taxpayers contended that they did not work in Indiana, that they did not rent their Indiana house, that they had no Indiana income, and that they have been domiciled in Saudi Arabia during

those years. Thus, Taxpayers maintained that they were not Indiana residents for the Tax Years at Issue.

Upon review, however, the Department is not able to agree that Taxpayers were not domiciled in Indiana prior to the Tax Years at Issue. Specifically, there is no dispute that Taxpayers lived in Indiana during 1990s. Taxpayers' documentation demonstrated that while residing in Indiana, Husband received unemployment benefits. Before Husband began to work overseas, their last residence was Indiana where they obtained Indiana Operator Licenses. Even after Taxpayers relocated to Saudi Arabia, they did not sever their ties with Indiana. Taxpayers continued to maintain and renew their Indiana Operator licenses and vehicles licenses. Taxpayers' documentation further showed that, in 1999, Taxpayers purchased the house in Indiana and subsequently claimed the Indiana homestead credit on that Indiana home. As mentioned earlier, when the homestead deduction was claimed, Taxpayers necessarily affirmed that the Indiana home is their "true, fixed, permanent home to which [they have] the intention of returning after an absence." Taxpayer's children returned to their Indiana home and subsequently attended Indiana state colleges where they received in-state tuition benefits as resident students. Taxpayers' documentation further showed that Husband exercised his right to vote as a U.S. citizen by means of an absentee ballot. Husband affirmatively stated that his "Voting Residence" is their Indiana home.

Taxpayers, referencing "Iqama," claimed that they obtained Saudi Arabia "green card" status. However, Taxpayers are mistaken. A review of the public information showed that Iqama, is a mandatory "Resident Identification" card for US expatriates, such as Husband, who work in Saudi Arabia because a Saudi Arabian employment visa for a foreign worker is only valid for 90 days from the day the person enters into Saudi Arabia. That is, a foreign worker is required to carry the Iqama to show that he or she is legally present to live or work in Saudi Arabia pursuant to the law of Saudi Arabia. The employer is statutorily required to ensure that its non-Saudi Arabian employees properly obtain the Iqama immediately upon their arrival at Saudi Arabia. The Iqama holder must renew the Iqama annually and the Iqama holder (or family member) must obtain the employer's clearance when they plan to travel or leave Saudi Arabia. In other words, Taxpayers may acquire legal residence in Saudi Arabia based on Husband's employment. Their residence in Saudi Arabia, however, has been temporary in nature. Unlike the "green card" holders (i.e., lawful permanent residents or LPRs), who live in the United States are considered permanent residents and are entitled to apply for US citizenship after certain requirements are satisfied, Taxpayers in this case are prohibited from becoming "lawful permanent residents" of Saudi Arabia by operation of the law in Saudi Arabia regardless of the terms of employment. To state it differently, it is legally impossible for Taxpayers to acquire Saudi Arabia LPR status. Regardless of their intent to stay there indefinitely, Taxpayers in this instance have no path to become citizens of Saudi Arabia and have no right to vote as citizens of Saudi Arabia. Husband claimed that he maintains his Iqama for 23 years, but Husband has been required to periodically obtain employment visa from Saudi Arabia government and each visa was only valid up to 90 days during those 23 years. Since it is legally impossible to become LPRs in Saudi Arabia, Taxpayers were not able to establish their domicile in that country under Saudi Arabia's strict immigration policy and labor law. Taxpayers' supporting documentation further demonstrated that Husband has resided in an apartment assigned by his employer in Saudi Arabia because Saudi Arabia's law does not permit non-Saudi Arabian citizens to own real property.

Taxpayers further argued that they owned vacant land in Missouri for years and had planned to return to Missouri. Taxpayers, however, never took steps to apply for the Missouri homestead credit on that property. Taxpayers' supporting documentation further failed to show that they took affirmative steps to establish their domicile in Missouri during those years since they owned the vacant land.

As discussed earlier, Taxpayers could have more than one residence and could be residents for more than one state, but they can only have one domicile at a given time. [45 IAC 3.1-1-22](#). Taxpayers arguably were in transition during 1990s when they first established their residence in Indiana before Husband began to work in Saudi Arabia. Taxpayers however were prohibited from establishing their domicile in Saudi Arabia by operation of the law of that country. On the other hand, Husband received unemployment benefits while they resided in Indiana during 1990s. Taxpayers' documentation further demonstrated that Taxpayers took affirmative steps throughout those intervening years to show their intent to domicile in Indiana after they bought the Indiana home in 1999. Those affirmative steps included, but were not limited to, (1) periodically renewing their licenses; (2) applying for the Indiana homestead credit; (3) voting as a US citizen, who's "Voting Residence" was in Indiana; and (4) obtaining in-state tuition benefits for their children who attend Indiana state colleges. Those steps together with the fact that Wife eventually returned and has resided in their Indiana home support that Taxpayers established their domicile in Indiana.

As mentioned earlier, Taxpayers may also qualify as Indiana residents if they spent more than 183 days during the Tax Years at Issue in Indiana when they maintained a permanent place of residence in Indiana. IC § 6-3-1-12; [45 IAC 3.1-1-21](#). Since the Department concludes that Taxpayers were domiciled in Indiana, the question

regarding whether Taxpayers spent more than 183 days (each year) of the Tax Years at Issue in Indiana is also moot.

Finally, for Indiana residents who worked overseas, Indiana is permitted to tax all income of the Indiana residents. However, the Indiana residents are entitled to a credit for tax they paid overseas. The Department's Income Tax Information Bulletin 55 (September 2001), 25 Ind. Reg. 242, explains in relevant part, as follows:

III. RESIDENT STATUS AND DOMICILE

...

If you are a United States citizen domiciled in Indiana, and you go to a foreign country for a limited amount of time because of an assignment by your employer, . . . you do not lose or change your Indiana domicile unless you can clearly show that you intend to remain in that foreign country permanently and that you do not plan to return to Indiana.

IV. TAXABILITY OF INCOME EARNED IN A FOREIGN COUNTRY

If you are a United States citizen domiciled in Indiana while in a foreign country, you must file your Indiana individual income tax return as a resident, (Form IT-40). As an Indiana resident, you are subject to tax on income you received from all sources, including income earned in a foreign country that was included in your federal adjusted gross income

A review of Taxpayers' 1993 federal income tax return suggested that Taxpayers had reported a portion of Husband's income earned in Saudi Arabia as "Foreign Earned Income" in Form 2555 to be excluded from federal income tax for that tax year. Taxpayers thus are required to provide similar supporting documents, including Form 2555 to their federal income tax returns for the Tax Years at Issue, in order to properly claim this exclusion.

In conclusion "[e]ach assessment and each tax year stands alone." *Miller Brewing*, 903 N.E.2d at 69. The Department is mindful that there is no one set of standards that will accurately indicate the person's intent in every relocation. Under Indiana law, mere ownership of Indiana property does not necessarily make that owner an Indiana resident for state income tax purposes. However, given the totality of the circumstances, in the absence of other supporting documents, the Department is not able to agree that Taxpayers met their burden of proof. Therefore, given a "case-by-case" review of Taxpayers' facts, documentation, circumstances, all of Taxpayers' income earned during the Tax Years at Issue was subject to Indiana income tax because after Taxpayers established their domicile in Indiana, their domicile remained in Indiana. Taxpayers thus are required to file Indiana IT-40 returns for the Tax Years at Issue. To properly claim the exclusion of Husband's foreign source income, Taxpayers must provide their federal transcripts (including information of Form 2555) when they file their Indiana IT-40 returns.

FINDING

Taxpayers' protest of the residency issue is respectfully denied.

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